APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/048,114	03/05/2002	Rainer Hillebrand	RBL0085	6351

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EXAMINER
PATEL, NIKETA I

ART UNIT	PAPER NUMBER
2181	

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04/01/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/048,114	HILLEBRAND, RAINER
	Examiner	Art Unit	
	NIKETA I. PATEL	2181	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>23 January 2009</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
     closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>10,15 and 16</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>10,15 and 16</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>02 August 2007</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
        application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

01/23/2009 has been entered.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2)
> of such treaty in the English language.

3.   Claims 10, 15-16 are rejected under 35 U.S.C. 102(e) as being anticipated by

U.S. Patent No.: 6,167,441 granted to Himmel, Maria Azua (hereinafter "Himmel".)

4.   Referring to claim 15, (currently amended): Himmel teaches a process for

transferring data from a data-preparing device to a data-requesting device [column 4,

lines 42-54 – web page], comprising: the data-requesting device requests [figure 3,

elements 101,103,105,107], over a network [figure 3, element 109], requested data to

be transmitted to it by the data-preparing device [figure 3, element 111 and column 5,

lines 32-62; column 6, lines 28-61]; the data-requesting device transmits to the data-preparing device over the network information data about the capabilities of the data-requesting device, said information data transmitted by the data-requesting device including a list of usable display formats for the data-requesting device [column 6, lines 44 to column 7, lines 38 and column 8, lines 20-41, list of format], said list comprising a plurality of display formats [column 8 – lines 19-30, "…a dialog of several alternative pages could be presented where the client browser and server application try out different web pages to see which is best for the client device…" – this section indicates that a plurality of display formats are available for selection]; the data-preparing device then, according to availability at the data-preparing device, automatically selects a single display format from the list of usable display formats transmitted by the data-requesting device; the requested data being stored in a central data bank of the data-preparing device [column 6, lines 44 to column 7, lines 38 and column 8, lines 20-41, list of format]; a formatting device formats, on call, the requested data into the selected display format [column 6, lines 44 to column 7, lines 38 and column 8, lines 20-41, list of format]; and the data-preparing device then transmits the requested data over the network to the data-requesting device in the selected display format [column 6, lines 44 to column 7, lines 38 and column 8, lines 20-41, list of format.]

5.   Claim 10 (previously presented): Himmel teaches the process according to claim 15, wherein the information data are transmitted to the data-preparing device over a device engaged between the data-requesting device and the data-preparing device

[figure 3; column 5, lines 32-62; column 6, lines 28 to column 7, lines 38 and column 8, lines 20-41.]

6.   Claim 16 (currently amended): Himmel teaches a process for transferring data from a data-preparing device to a data-requesting device, comprising: the data-requesting device requests, over a network, requested data to be transmitted to it by the data-preparing device wherein the requested data includes textual data contained in graphics data [figure 3; column 5, lines 32-62; column 6, lines 28 to column 7, lines 38 and column 8, lines 20-41]; the data-requesting device transmits to the data-preparing device over the network information data about the capabilities of the data-requesting device, said information data transmitted by the data-requesting device including a list of usable display formats for the data-requesting device, said list comprising a plurality of display formats [figure 3; column 5, lines 32-62; column 6, lines 28 to column 7, lines 38 and column 8, lines 20-41]; the data-preparing device then, according to availability at the data-preparing device, selects a single display format from the list of usable display formats transmitted by the data-requesting device [figure 3; column 5, lines 32-62; column 6, lines 28 to column 7, lines 38 and column 8, lines 20-41]; the requested data being stored in a central data bank of the data-preparing device [figure 3; column 5, lines 32-62; column 6, lines 28 to column 7, lines 38 and column 8, lines 20-41]; a formatting device formats, on call, the requested data into the selected display format the selected display format being mere textual format[figure 3; column 5, lines 32-62; column 6, lines 28 to column 7, lines 38 and column 8, lines 20-41]; and the data-preparing device then transmits the requested data over the network to the data-

requesting device in the selected display textual format [figure 3; column 5, lines 32-62; column 6, lines 28 to column 7, lines 38 and column 8, lines 20-41.]

Response to Arguments

7.   Applicant's arguments filed 1/23/2009 have been fully considered but they are not persuasive. Applicant's arguments are summarized as the following: (1) The claims also call for the data preparing device then, accordingly to availability at the data comparing device, automatically selecting a single display format from the list of useable display formats that was sent to it. There is no such automatic selection of a single display format from a list of transmitted formats in the system and method disclosed by Himmel; and (2) Himmel is also silent with respect to a list comprising a plurality of display formats.

8.   <u>As per the first argument,</u> examiner notes that Himmel does in fact disclose solutions to automatically select the appropriate format (i.e. web page), by detecting the type of operating system. If this is not enough for the selection process Himmel discloses further selection aspects. Due to the fact that further methods are indicated and guided by the client-smart agent 155 this is equivalent to the automatic selection as indicated in the claimed invention [Column 6 lines 49-62.]

9.   <u>As per the second argument,</u> examiner notes that Himmel disclose a list comprising a plurality of display formats [column 8 – lines 19-30, "...a dialog of several alternative pages could be presented where the client browser and server application try

out different web pages to see which is best for the client device..." – this section

indicates that a plurality of display formats are available for selection.]

Conclusion

10.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to NIKETA I. PATEL whose telephone number is (571)272-

4156. The examiner can normally be reached on M-F 8:00 A.M. to 6:00 P.M, with every

other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Alford Kindred can be reached on (571) 272 4037. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Niketa I. Patel/
Primary Examiner, Art Unit 2181